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FILED
U.S. DISTRICT COURT

2005 SEP -9 P 4: 04

DISTRICT OF UTAH

DEPUTY CLERK

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

STATE OF UTAH, *et al.*,

Plaintiffs,
vs.

GALE NORTON, in her official capacity as
SECRETARY OF THE INTERIOR, *et al.*,

Defendants.
and

SOUTHERN UTAH WILDERNESS
ALLIANCE, *et al.*,

Defendant-Intervenors

2:96CV0870 B

**UNOPPOSED JOINT MOTION OF THE
UTAH PLAINTIFFS AND FEDERAL
DEFENDANTS TO STAY BRIEFING
AND FOR A STATUS CONFERENCE TO
CONSIDER THEIR RULE 41(a)(2)
MOTION TO DISMISS PURSUANT TO
MODIFIED SETTLEMENT
AGREEMENT**

Hon. Dee V. Benson

Plaintiffs, State of Utah, Utah School and Institutional Trust Lands Administration, and Utah Association of Counties (the "Utah Plaintiffs"), and the Federal Defendants hereby jointly request that this Court stay briefing and schedule a telephonic status conference to consider their Fed. R. Civ. P. 41(a)(2) motion to dismiss the Utah Plaintiffs' third amended and supplemented complaint pursuant to the modified settlement filed herewith, and to address whether the objections and claims raised by the Defendant-Intervenors, Southern Utah Wilderness Alliance *et al.* ("SUWA") are either mooted or rendered stale by the agreed upon modifications. Counsel for SUWA do not oppose this motion. This request is supported by good cause as set forth below:

1. The Court's April 14, 2003 Dismissal Order approving the Settlement Agreement incorporated its terms and retained jurisdiction over its enforcement, including the stipulation that the Bureau of Land Management ("BLM") will not establish, manage, or otherwise classify public lands, other than the Wilderness Study Areas ("WSAs") established pursuant to the Federal Land and Policy Act ("FLPMA") Section 603 wilderness review, as WSAs.

2. At the hearing on August 8, 2005, this Court vacated the Dismissal Order pending the conclusion of district court proceedings but left the underlying settlement intact. This Court also expressed concerns that continuing jurisdiction and enforcement as to future executive branch administrations would violate separation of powers principles, Hearing Transcript, pp. 17, 29, 40.

3. On August 18, 2005, the settling parties requested an unopposed extension of time to file responsive briefs to SUWA's dispositive motions from August 22, 2005 until September 9, 2005. The issues raised by the Court needed to be discussed with the respective clients, including whether some of the issues may drop out.

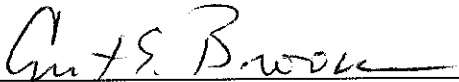
4. As a result of these discussions, Plaintiffs and Defendants have revised the settlement agreement and jointly move the Court to dismiss Plaintiffs' Third Amended and Supplemented Complaint. The revised executory settlement and proposed dismissal order remove the provisions for continuing jurisdiction from the settlement terms, and thus, the constitutional concerns raised by the Court are no longer implicated.

5. The modified executory settlement attached to the joint motion to dismiss now before the Court also disposes of SUWA's objection as to whether the consent decree unconstitutionally binds future administrations to a particular interpretation of FLPMA. Petition for Review 46-52.

6. A status conference, therefore, is requested for the Court to consider the Rule 41(a)(2) motion to dismiss, and to allow SUWA the opportunity to withdraw, revise, and/or supplement its objections based on the revision to the settlement. It would be a waste of judicial resources to continue briefing a superseded settlement, especially when the changes address both the Court's concerns and SUWA's objections. The Plaintiffs and Defendants request that the status conference be held telephonically.

WHEREFORE, the Utah Plaintiffs and Federal Defendants respectfully ask that the Court stay briefing and schedule a status conference to consider their Fed. R. Civ. P. 41(a)(2) motion to dismiss the Utah Plaintiffs' third amended complaint pursuant to the modified settlement, and to address SUWA objections and claims either mooted or rendered stale by the agreed upon modifications.

Respectfully submitted this 9th day of September, 2005.

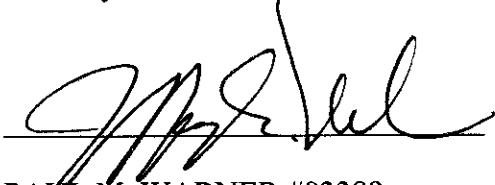


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CERTIFICATE OF SERVICE

I hereby certify that copies of the Utah Plaintiffs and Federal Defendants' Joint Motion for a Status Conference and Proposed Order were served on the following parties by depositing them in the U.S. mail, postage prepaid on this 9th day of September 2005.

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